

# EXHIBIT Q

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
No.: 1:20-CV-05441 (KPF)(KWL)

UNIFORMED FIRE OFFICERS           )  
ASSOCIATION, et al.,                )  
  )  
      Plaintiffs,                     )  
  )  
      vs.                               )  
  )  
BILL de BLASIO, et al.,             )  
  )  
      Defendants.                     )  
\_\_\_\_\_)

REMOTE VIDEOTAPED DEPOSITION OF  
KERRY JAMIESON  
Thursday, August 6, 2020

REPORTED BY:

RHONDA HALL-BREUWET, RDR, CRR, LCR, CCR, FPR

JOB NO. 28092

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August 6, 2020

3:01 p.m.

Videotaped Deposition of KERRY

JAMIESON, held remotely before Rhonda  
Hall-Breuwet, Registered Diplomate Reporter,  
Certified Realtime Reporter, Licensed Court  
Reporter (TN), Certified Court Reporter (GA  
and LA), Florida Professional Reporter, and  
Notary Public of the State of Florida.

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15  
16 EXHIBIT TECHNICIAN:

17 GABRIELA ALVAREZ

18  
19 VIDEOGRAPHER:

20 JEREMY LeMASTER

I N D E X

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DIRECT EXAMINATION BY MR. COLES

9

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1 KERRY JAMIESON

2 THE VIDEOGRAPHER: Good afternoon.

3 We are now on record. Today's date is  
4 August 6th, 2020, and the time is 3:01 p.m.  
5 Eastern Standard Time.

6 This is the video deposition of  
7 Kerry Jamieson in the matter of Uniformed  
8 Fire Officers Association, et al., versus  
9 Bill de Blasio, et al., filed in the United  
10 States District Court, Southern District of  
11 New York. Case number is  
12 1:20-cv-05441-KPF-RWL.

13 This deposition is taking place  
14 via web videoconference with all  
15 participants attending remotely due to the  
16 COVID-19 pandemic.

17 My name is Jeremy LeMaster. I'm  
18 the videographer representing TransPerfect,  
19 and the document tech is Gabriella Alvarez.

20 Counsel on the conference, please  
21 identify yourselves and state whom you  
22 represent, beginning with the questioning  
23 attorney.

24 MR. COLES: Good afternoon, and  
25 good afternoon, Ms. Jamieson. I'm Tony



1 KERRY JAMIESON

2 Coles from DLA Piper, and I represent the  
3 plaintiffs, and I'm here with Evan North.

4 THE WITNESS: Good afternoon.

5 MR. COLES: Good afternoon.

6 Can you hear me okay?

7 THE WITNESS: I can.

8 MR. COLES: Well, good. I'm glad  
9 we got that straightened out.

10 MS. QUINN: And good afternoon,  
11 everybody. My name is Rebecca Quinn. I'm  
12 from the Office of the Corporation Counsel  
13 representing the defendants, and I'm here  
14 with my colleague Dominique Saint-Fort.

15 THE VIDEOGRAPHER: Thank you,  
16 Counsel.

17 Our court reporter today is Rhonda  
18 Hall-Breuwet representing TransPerfect.

19 The court reporter will now swear  
20 in the witness.

21 CERTIFIED STENOGRAPHER: Raise  
22 your right hand, please.

23 Do you solemnly swear the  
24 testimony you are about to give will be the  
25 truth, the whole truth, and nothing but the

1 KERRY JAMIESON

2 truth?

3 THE WITNESS: I do.

4 KERRY JAMIESON

5 acknowledged having been duly sworn to tell

6 the truth and testified upon her oath as

7 follows:

8 DIRECT EXAMINATION

9 BY MR. COLES:

10 Q Good afternoon, Ms. Jamieson.

11 A Good afternoon.

12 Q Have -- have you been deposed  
13 before?

14 A I have not.

15 Q Okay. So this is your first time?

16 A Yes.

17 Q And so obviously your first time  
18 on Zoom also, which makes it a little unusual.

19 Let me tell you a little bit about  
20 the ground rules. I'm going to be asking you  
21 questions. The questions are under oath. So  
22 it's important that you understand my  
23 questions clearly. If you don't understand my  
24 question, let me know and I'll try and  
25 rephrase it. But it's equally important that

1 KERRY JAMIESON

2 you understand that your answers be clear as  
3 well.

4 If during the course of the  
5 deposition you need to correct something or  
6 clear something up, let me know. If you need  
7 a break, that's fine. The only thing I would  
8 ask you is not take a break while a question  
9 is pending unless there is an attorney-client  
10 privilege or an issue like that.

11 I will tell you that when the  
12 deposition is over, we are actually, in  
13 addition to doing the video, making a  
14 transcript, and you will get an opportunity to  
15 look at the transcript and make any  
16 corrections on the transcript, although if you  
17 do make corrections on the transcript, I may  
18 have a second opportunity to make comments on  
19 those corrections. But you will, in fact, get  
20 that opportunity.

21 You're here as a 30(b)(6) witness  
22 for the CCRB; is that correct?

23 A That's correct.

24 Q Okay. And you're here to talk  
25 about the policies and practices for handling

1 KERRY JAMIESON

2 FOIL requests and the privacy of personnel  
3 records at the CCRB?

4 A That's correct.

5 Q Okay. Are you currently working  
6 at the CCRB?

7 A Yes, I am.

8 Q What is your position there?

9 A I am the -- one of the assistant  
10 general counsels, is my official title.

11 Q Okay. And how long have you been  
12 at the CCRB?

13 A Since August of 2017.

14 Q Okay. And were you at the CC --  
15 were you at the City before that --

16 A No, I was not.

17 Q -- before you were -- where were  
18 you before arriving at the CCRB?

19 A I was a supervising attorney at  
20 the office of the appellant defender.

21 Q And do your responsibilities as  
22 assistant general counsel relate to the FOIL  
23 law?

24 A Yes. I'm also -- I am the records  
25 access appeals officer.

1 KERRY JAMIESON

2 Q Okay. And can you explain for the  
3 record what that means, the records access  
4 appeals officer?

5 A Yes. So the records access  
6 officer at an agency handles the FOIL  
7 requests. If any portion of the request is  
8 denied, the requester has an opportunity to  
9 appeal the denial. And that appeal will go to  
10 me, and I would review the request and what  
11 was sent and what the denial was and the bases  
12 and determine whether or not the records  
13 access officer's determinations were within  
14 the scope of the law.

15 Q Okay. And then were you given --  
16 were you given training on the FOIL law when  
17 you first took the position of assistant  
18 general counsel at CCRB?

19 A Yes. When I first became  
20 assistant general counsel, I was the records  
21 access officer at that time.

22 Q Okay. And what kind of training  
23 were you given at that time with regard to --

24 A The person who --

25 Q -- FOIL?

1 KERRY JAMIESON

2 A -- the person who was the records  
3 access officer prior to my arrival, she  
4 provided me with training about how to respond  
5 to FOIL requests and about the FOIL law.

6 Q Okay. Did -- were there written  
7 training materials that the CCRB provided to  
8 you?

9 A No.

10 Q Okay.

11 A Not at that time.

12 Q Are there written materials today  
13 regarding how the CCRB should respond to FOIL?

14 A We have a draft of a FOIL manual.

15 Q Anything else?

16 A No. That's it, that I'm -- that  
17 I'm aware of.

18 Q Okay. And explain what the FOIL  
19 manual covers.

20 A The FOIL manual covers the basics  
21 of the FOIL law in terms of if you get a  
22 request, how many days you have to respond,  
23 how to use the open records system, which is  
24 the system we prefer to use to handle FOIL  
25 requests, and it goes through some of the

1 KERRY JAMIESON

2 common FOIL exceptions that come up in the  
3 practice.

4 Q Okay. When you say it's a draft,  
5 is it something that is used today --

6 A Yes.

7 Q -- in terms of guiding the CCRB?

8 A Yes.

9 Q Okay. And does the document have  
10 a specific name?

11 A It's called the FOIL Manual.

12 MR. COLES: Okay. Actually, Evan,  
13 you put up Tab 27.

14 BY MR. COLES:

15 Q I'm going to ask you if this is  
16 the manual that you're talking about.

17 A Scroll down, please.

18 That looks to be it.

19 MR. COLES: Okay. So I'm going to  
20 mark as Exhibit 1 the FOIL manual for the  
21 CCRB.

22 (Exhibit Number 1, CCRB FOIL  
23 Manual, Bates-stamped  
24 DEF\_UFOA\_001982 - 1995, was marked  
25 for identification.)

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Were you involved in preparing  
4 this manual?

5 A I did not draft it, but the  
6 records access officer at that time did  
7 consult me.

8 Q Okay. And to the best of your  
9 knowledge, does it represent the guidance that  
10 is given to CCRB employees on how to respond  
11 to FOIL?

12 A Yes.

13 Q Okay. Are you --

14 MR. COLES: If you can go to  
15 page 1983 of this document, please, Evan.

16 BY MR. COLES:

17 Q Okay. Ma'am, can -- I'm not sure  
18 on the computer. I want to make sure you can  
19 see this document.

20 A If you can make it a little bit  
21 bigger, that would be great.

22 Okay.

23 Q Okay. The first sentence of the  
24 manual describes the detailed responsibilities  
25 of the records access officer at the CCRB and



1 KERRY JAMIESON

2 the CCRB's procedures and policies in  
3 complying with FOIL.

4 Is that what this manual does?

5 A Yes.

6 Q Okay. And it also directs the  
7 records access officer to comply with the  
8 responsibilities, procedures, and policies  
9 that are set forth in the manual?

10 A Yes, that's what it says.

11 Q Okay. If you look towards the  
12 bottom of the paragraph, there's a highlighted  
13 sentence that says:

14 "The New York State -- New York  
15 Department of State's Committee on Open  
16 Government is responsible for overseeing and  
17 advising the government, public, and news  
18 media on FOIL."

19 Do you see that?

20 A Yes.

21 Q Okay. Do you have an  
22 understanding as to what the Committee on Open  
23 Government is and what its function is?

24 A Yes.

25 Q Can you please describe its

1 KERRY JAMIESON

2 function and how you worked with it.

3 A Well, the main function is a  
4 Committee on Open Government provides guidance  
5 on access to public records, and, you know,  
6 the FOIL law can be found on its Website and  
7 they also provide advisory opinions to people  
8 writing in on various questions involving the  
9 FOIL law.

10 Q Okay.

11 A They have other functions as well,  
12 but that's -- for FOIL purposes, that's what  
13 they do.

14 Q Okay. And as part of your job, do  
15 you review the Committee on Open Government's  
16 opinions?

17 A Not regularly, but I have reviewed  
18 some.

19 Q Okay. Would you consider the  
20 Committee on Open Government to be the  
21 statewide authority on the application of  
22 FOIL?

23 A What do you mean -- "statewide  
24 authority," what do you mean by that?

25 Q Is it the state agency that

1 KERRY JAMIESON  
2 provides guidance to all elements of the State  
3 on the proper application of FOIL?

4 A I believe that it's the State  
5 agency. I also believe that the Court plays a  
6 role in interpreting FOIL law.

7 Q Right.

8 Is -- what is the CCRB's position  
9 with regard to following advisory opinions  
10 issued by the Committee on Open Government?

11 MS. QUINN: Objection.

12 You can answer.

13 THE WITNESS: I don't know that we  
14 have a policy. I can tell you what I did  
15 as records access officer when I served in  
16 that position, which is that if an issue  
17 came up that I needed additional  
18 clarification on, I would go to the  
19 Committee on Open Government and look  
20 through and search for the advisory  
21 opinions to see if there was anything that  
22 was relevant. But I would also go and look  
23 at court cases to see how the law was  
24 interpreted in the courts.

25 ///

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. Is it generally the CCRB's  
4 practice to follow the advisory opinions  
5 issued by the Committee on Open Government?

6 MS. QUINN: Objection.

7 You can answer.

8 THE WITNESS: I think it's on a  
9 case-by-case basis. As I said, it's not  
10 just what would be an advisory opinion.  
11 But if there is also case law relevant to  
12 the issue, then we look at -- the records  
13 access officer would look at both.

14 BY MR. COLES:

15 Q Right. Sitting here today, can  
16 you think of any instance in producing FOIL  
17 requests that you rejected as incorrect an  
18 advisory opinion from the Committee on Open  
19 Government Quinn objection?

20 MS. QUINN: Objection.

21 You can answer.

22 THE WITNESS: I cannot recall any  
23 time right now.

24 BY MR. COLES:

25 Q Okay. Can you recall any instance

1 KERRY JAMIESON  
2 where -- anybody else at the CCRB responsible  
3 for responding to FOILs rejected an opinion of  
4 the advisory committee -- of the advisory --  
5 an advisory opinion on the Committee on Open  
6 Government?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: Not that I'm aware  
10 of.

11 BY MR. COLES:

12 Q Are you aware that the committee  
13 has long held that the release of  
14 unsubstantiated and pending allegations of  
15 misconduct would constitute an unreasonable  
16 invasion of personal privacy?

17 MS. QUINN: Objection.

18 You can answer.

19 THE WITNESS: I'm aware that the  
20 committee has issued advisory opinions  
21 stating that an agency can assert that  
22 exception to the FOIL law if they want to,  
23 but it's not mandatory that it's asserted.

24 BY MR. COLES:

25 Q Right. My question was a little

1 KERRY JAMIESON  
2 different, though. And my question is, are  
3 you aware that the Committee on Open  
4 Government has actually issued a number of  
5 opinions saying that the release of  
6 unsubstantiated or unfounded allegations is a  
7 invasion of privacy?

8 MS. QUINN: Objection.

9 THE WITNESS: My --

10 MS. QUINN: I believe that she  
11 answered that question.

12 But you can answer.

13 THE WITNESS: I was going to say,  
14 my answer remains the same.

15 BY MR. COLES:

16 Q Okay. Does the CCRB have a  
17 position as -- as to the release of  
18 unsubstantiated and unfounded allegations  
19 against a police officer that believes that  
20 those allegations are not an unwarranted  
21 invasion of privacy?

22 MS. QUINN: Objection to form.

23 You can answer.

24 THE WITNESS: I'm not sure I  
25 understand your question.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. Does this -- does the CCRB  
4 have a position as to whether or not the  
5 release of unsubstantiated or unfounded  
6 complaints against a police officer would  
7 constitute an unwarranted invasion of personal  
8 privacy?

9 A I don't know that we have a  
10 position. I know that this -- from my  
11 understanding, the CCRB has not and does not  
12 assert that FOIL exception when responding to  
13 a FOIL request that involves those records.

14 Q I'm sorry. I didn't really  
15 understand your answer. Say that one more  
16 time.

17 A My answer was that --

18 MS. QUINN: I'm sorry. Can you  
19 read back -- can you read back her answer,  
20 please.

21 (Previous answer read back.)

22 BY MR. COLES:

23 Q Could you explain what you mean by  
24 that.

25 A Sure. So to my knowledge, the

1 KERRY JAMIESON

2 CCRB does not assert an unwarranted invasion  
3 of privacy FOIL exception on the basis of what  
4 the outcome of the case was.

5 Q My question -- does it as a policy  
6 matter assert the exception as to unfounded  
7 and unsubstantiated allegations?

8 MS. QUINN: Objection.

9 You can answer.

10 THE WITNESS: The CCRB doesn't  
11 assert the FOIL from -- again, to my  
12 knowledge, the CCRB does not assert the  
13 unwarranted invasion of privacy exception  
14 based on whatever the outcome of the case  
15 was. That does not factor into whether or  
16 not that exception is asserted.

17 BY MR. COLES:

18 Q So even if a case is  
19 unsubstantiated or unfounded, the CCRB will  
20 not assert the unwarranted invasion of  
21 personal privacy exception? Is that your  
22 testimony?

23 MS. QUINN: Objection. Asked and  
24 answered.

25 But you may answer.



1 KERRY JAMIESON

2 Pardon me.

3 THE WITNESS: The records access  
4 officer takes every FOIL request and  
5 evaluates it individually. However, to my  
6 knowledge, that exception is not asserted  
7 on that basis.

8 BY MR. COLES:

9 Q Why not?

10 A Why not? Well, because the  
11 records access officer does not -- we've never  
12 done an analysis of whether or not an  
13 allegation is unsubstantiated or exonerated,  
14 unfounded doesn't have to be -- it's not an  
15 exception that needs to be asserted. It  
16 doesn't fall -- it's not mandatory that that  
17 exception is asserted under the FOIL law.

18 Q Okay. And are you saying that as  
19 a policy matter the CCRB has decided not to  
20 assert that exemption?

21 MS. QUINN: Objection. Asked and  
22 answered.

23 You may answer.

24 THE WITNESS: I would say that to  
25 my knowledge, the records access officer

1 KERRY JAMIESON

2 does not assert that the unwarranted  
3 invasion of privacy exception for -- based  
4 on the outcome of a CCRB investigation.

5 MR. COLES: Evan, you can take the  
6 exhibit down for the time being.

7 BY MR. COLES:

8 Q Does the CCRB have a policy as to  
9 whether or not it releases the disciplinary  
10 records of claims and allegations that are  
11 pending?

12 A I'm sorry. I don't know if I  
13 understand your question.

14 Q Okay. Does the CCRB -- well, you  
15 understand that a claim or allegation at the  
16 CCRB will go through a process, correct?

17 A Uh-huh.

18 Q Okay. And then ultimately that  
19 process will result in a claim being  
20 unsubstantiated or substantiated, correct?

21 MS. QUINN: Objection. This is  
22 outside the scope of this deposition.

23 MR. COLES: It's not.

24 MS. QUINN: Asking about the  
25 process of CCRB investigations is outside

1 KERRY JAMIESON

2 the scope.

3 MR. COLES: This is directly  
4 related to FOIL.

5 MS. QUINN: How so?

6 MR. COLES: Can I have my question  
7 back?

8 I'm not going to engage in  
9 colloquy. If you want to direct her not to  
10 answer, we'll take it up with the judge.

11 MS. QUINN: I'm going to direct  
12 her not to answer, unless you can come to  
13 the --

14 MR. COLES: Can I have the  
15 question back, please, and then you can  
16 direct her not to answer.

17 BY MR. COLES:

18 Q Actually, I'll -- here's -- so we  
19 don't waste time, does the CCRB have a policy  
20 of withholding as privacy allegations that  
21 haven't yet been concluded because they're  
22 under investigation?

23 A Not on unwarranted invasion of  
24 privacy grounds, no.

25 Q On some other grounds?

1 KERRY JAMIESON

2 A Yes.

3 Q On what grounds?

4 A Usually we -- I believe the record  
5 access officer asserts the inter-agency or  
6 intra-agency exception, and it's also I  
7 believe the interference with judicial  
8 proceedings. So we have -- there's two  
9 different things. There's CCRB cases, and  
10 then if a case is pending in the APU, the  
11 records access officer will not release any  
12 information about the CCRB case or the APU  
13 case until the APU case is closed.

14 Q Okay. And in determining the  
15 privacy exception under FOIL, does the records  
16 access officer look at every FOIL request on a  
17 case-by-case basis?

18 A Yes.

19 Q And makes a determination about  
20 privacy on a case-by-case basis?

21 A I believe they -- the records  
22 access officer looks at all the FOIL  
23 exceptions.

24 Q Okay. And is it your testimony  
25 that as a matter of practice the CCRB never

1 KERRY JAMIESON

2 asserts the privacy exception on the basis of  
3 the outcome of the case?

4 MS. QUINN: Objection. Asked and  
5 answered.

6 But you may answer.

7 THE WITNESS: To my knowledge,  
8 that -- since I have been records access  
9 officer and since I've been at the agency,  
10 that has not occurred.

11 BY MR. COLES:

12 Q Is that a written policy?

13 A No, it's not a written policy.

14 Q Who established the policy?

15 MS. QUINN: Objection.

16 THE WITNESS: Having --

17 MS. QUINN: You can answer.

18 THE WITNESS: We have in the FOIL  
19 manual some guidance on when exceptions can  
20 be asserted. There is no guidance there  
21 about denying based on privacy. There's no  
22 guidance on asserting the privacy exception  
23 based on the outcome of a case or the  
24 pending nature of a case.

25 ///

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. And why does the CCRB  
4 believe that the release of unsubstantiated or  
5 unfounded allegations is not an invasion of  
6 personal privacy?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: The exception is  
10 permissive. And so FOIL starts from the  
11 standpoint that all records should be  
12 released. And then it's only if an  
13 exception applies and the agency wants to  
14 assert that exception that records should  
15 be held back. But the presumption is that  
16 all records are disclosable to the public.

17 BY MR. COLES:

18 Q Do you know what the police  
19 department's position is with regard to  
20 unsubstantiated and unfounded allegations?

21 MS. QUINN: Objection. This is --  
22 I'm going to instruct the witness  
23 not to answer as being outside the scope.

24 BY MR. COLES:

25 Q Do you know whether or not the

1 KERRY JAMIESON

2 position the CCRB takes is different than  
3 other City agencies?

4 MS. QUINN: Objection.

5 You can answer.

6 THE WITNESS: I do not know.

7 BY MR. COLES:

8 Q Okay. And what was the reasoning  
9 behind the CCRB's determination not to ever --  
10 not to ever assert the privacy objection as to  
11 unsubstantiated and unfounded claims?

12 MS. QUINN: Objection.

13 You can answer.

14 THE WITNESS: The records access  
15 officer follows the FOIL law. It's a  
16 permissive exception.

17 BY MR. COLES:

18 Q Okay. Have you ever been involved  
19 in discussions regarding the commission -- the  
20 Committee on Open Government opinions  
21 indicating that unsubstantiated or unfounded  
22 allegations could constitute an unwarranted  
23 invasion of privacy?

24 A Discussions?

25 Q Yes.

1 KERRY JAMIESON

2 A I don't -- I don't know that I  
3 understand what you mean. Discussions with  
4 who?

5 Q Discussions with other members of  
6 the CCRB.

7 A Can we take a -- take a break?  
8 Can we -- I just need to consult with counsel.

9 MR. COLES: Sure.

10 THE VIDEOGRAPHER: We are off the  
11 record at 3:25 p.m.

12 (Break taken from 3:25 p.m. to  
13 3:28 p.m.)

14 (Previous question read back.)

15 THE VIDEOGRAPHER: And we're back  
16 on the record at 3:28 p.m.

17 THE WITNESS: Okay. I cannot  
18 answer that question without breaching  
19 attorney-client privilege.

20 BY MR. COLES:

21 Q When did you have those  
22 discussions?

23 MS. QUINN: Objection. Only  
24 answer to the extent that it doesn't  
25 disclose an attorney-client privilege.



1 KERRY JAMIESON

2 THE WITNESS: I honestly don't  
3 know the date.

4 BY MR. COLES:

5 Q Okay. Was it within the last  
6 three weeks?

7 A Yes.

8 MS. QUINN: Same objection.

9 MR. COLES: Excuse me?

10 MS. QUINN: Same objection.

11 But you may answer.

12 THE WITNESS: Yes.

13 BY MR. COLES:

14 Q Who was present at the  
15 conversation?

16 A I can't answer that without  
17 breaching attorney-client privilege.

18 Q Was your attorney present?

19 MS. QUINN: Objection. Only  
20 answer that question to the extent it  
21 doesn't breach attorney-client privilege.

22 THE WITNESS: Other members of  
23 CCRB legal staff.

24 BY MR. COLES:

25 Q Anybody outside the CCRB present?

1 KERRY JAMIESON

2 A No.

3 Q Will you tell me the substance of  
4 the discussions there?

5 MS. QUINN: Objection.

6 I'm instructing the witness not to  
7 answer that question as it breaches  
8 attorney-client privilege.

9 BY MR. COLES:

10 Q Will you tell me the reasons why  
11 the CCRB does not follow the Committee on Open  
12 Government's guidance that unsubstantiated or  
13 unfounded allegations are subject to the  
14 privacy exemption of FOIL?

15 MS. QUINN: Objection.

16 You can answer.

17 THE WITNESS: Well, I disagree  
18 with the premise of your question. The --  
19 my understanding of the guidance from the  
20 Committee on Open Government is that the  
21 unwarranted invasion of privacy exception  
22 could be asserted for that purpose, but  
23 that agency is not required to assert that.  
24 So I don't believe that the CCRB does not  
25 follow the guidance.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Well, my question is, what are the  
4 reasons why the CCRB decided to disclose  
5 information that the Open Commission --  
6 Committee on Open Government said may be an  
7 unreasonable or unwarranted invasion of  
8 privacy?

9 MS. QUINN: Objection to form.

10 You can answer.

11 THE WITNESS: I believe the answer  
12 is the same, that it's a permissive  
13 exception. So the records access officer  
14 can't assert it or not assert it.

15 BY MR. COLES:

16 Q But my question -- as I understand  
17 it, it is a policy of the CCRB not to assert  
18 it, according to your earlier testimony, and  
19 my question is, what are the reasons for that  
20 policy?

21 MS. QUINN: Objection.

22 You can answer.

23 THE WITNESS: I believe my earlier  
24 testimony was that the records access  
25 officer looks at every FOIL request

1 KERRY JAMIESON

2 individually. But to my knowledge has not  
3 asserted the unwarranted invasion of  
4 privacy exception for that, nor do I  
5 believe that the records access officer  
6 would, but, again, each FOIL request is  
7 handled individually.

8 BY MR. COLES:

9 Q And why do you believe the record  
10 access officer would not assert that  
11 objection?

12 A Because it's -- because the  
13 records access officer has not, and since the  
14 assertion -- since it is a permissive  
15 exception, you know, and furthermore, you  
16 know, the CCRB, since 50-a was repealed, the  
17 landscape is different from what it was  
18 before.

19 Q Okay. Are you aware that  
20 historically the CCRB has taken the position  
21 that unsubstantiated and unfounded allegations  
22 are, in fact, information that should be  
23 withheld under the privacy exception?

24 MS. QUINN: Objection. You can  
25 answer.

1 KERRY JAMIESON

2 THE WITNESS: I am not aware of  
3 that and I don't know that to be the case.

4 BY MR. COLES:

5 Q I'd like to show you Tab 10.  
6 We're going to mark it as Exhibit 2. It's a  
7 case called Hughes Hubbard & Reed versus  
8 Civilian Complaint Review Board. We're going  
9 to put it up on the screen for you.

10 (Exhibit Number 2, Document  
11 Titled "Hughes Hubbard & Reed  
12 versus Civilian Complaint Review  
13 Board," was marked for  
14 identification.)

15 BY MR. COLES:

16 Q Ms. Jamieson, are you familiar  
17 with this case, Hughes Hubbard & Reed versus  
18 Civilian Complaint Review Board?

19 A I've seen it before.

20 Q Okay. And when did you last see  
21 it?

22 A I can't answer that. I don't  
23 know.

24 MR. COLES: Okay. And if you go  
25 to the second page, please, Evan.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q You'll see this is a -- this is a  
4 case that deals with a request of CCRB  
5 records, and they're listed there on the left  
6 side.

7 Do you see that?

8 MS. QUINN: Is there a way that we  
9 can make the whole page visible? I want to  
10 see the paragraph before the highlighted  
11 paragraph.

12 Thank you.

13 BY MR. COLES:

14 Q And you'll note that the case --  
15 in the case the petitioner requested documents  
16 on behalf of a client who was a defendant in a  
17 case investigated by Detective Scarcella, and  
18 the CCRB denied petitioner's request based  
19 upon Public Officers Law 87(2)(a), which  
20 permits agencies to deny access to records  
21 when they are specifically exempted from  
22 disclosure by state or federal statute and  
23 Civil Rights Law 51.

24 Do you see that?

25 A I see 50-a.

1 KERRY JAMIESON

2 Q It's 50-a(1).

3 A That one?

4 Q Yes.

5 Okay. And if you look at the  
6 highlighted section on the bottom, it says:

7 "In this regard, the CCRB explained."

8 MR. COLES: And, Evan, if you can  
9 go to the next page.

10 BY MR. COLES:

11 Q "Courts have routinely and  
12 specifically held that CCRB records, which by  
13 their very nature are used to evaluate police  
14 officer performance, are restricted by Civil  
15 Rights Law 50-a."

16 And then if you go down to the  
17 next sentence the CCRB writes:

18 "Also, I would note that, to the  
19 extent your request seeks records concerning  
20 any matters that were not substantiated, any  
21 such requests would also represent an  
22 unreasonable invasion of privacy?"

23 And the CCRB wrote that in 2015.

24 Do you see that?

25 A I see that.

1 KERRY JAMIESON

2 Q Did there come a time, to your  
3 knowledge, when the CCRB took the position  
4 that the release of unsubstantiated claims  
5 were an unreasonable invasion of privacy?

6 A Well, I wasn't employed by the  
7 CCRB at this time, so I can't comment on that.

8 Q My question is, are you aware of  
9 that?

10 A I wasn't employed at the -- so at  
11 the time when this was written, I wouldn't  
12 have known that.

13 Q You are aware that that policy  
14 existed?

15 A When I began at CCRB, I was not  
16 aware.

17 Q And you began CCRB in what year?

18 A 2017, August.

19 Q Do you have any knowledge as to  
20 whether or not the CCRB has changed its policy  
21 concerning the release of unsubstantiated  
22 documents since 2016?

23 MS. QUINN: Objection.

24 You can answer.

25 THE WITNESS: I don't know that



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2 it's changed its policy. From my  
3 understanding, it's up to the agency or the  
4 records access officer in a particular case  
5 to determine whether or not to assert a  
6 particular exemption. And I don't believe  
7 that -- and if it's asserted in one  
8 particular case that it needs to be  
9 asserted in other cases.

10 BY MR. COLES:

11 Q But to your knowledge, the CCRB  
12 simply doesn't assert anymore that  
13 unsubstantiated complaints are protected by  
14 the privacy exemption, correct?

15 MS. QUINN: Objection.

16 You can answer.

17 THE WITNESS: It's my  
18 understanding that, again, each FOIL  
19 request is evaluated on an individual  
20 case-by-case basis. To my knowledge, since  
21 I have been employed at the CCRB, this  
22 particular privacy exemption has not been  
23 asserted with regards to the manner -- with  
24 regards to the outcome of -- of a case.

25 ///

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Are you aware recently that the  
4 CCRB released records of 81,000 police  
5 officers to the New York Civil Liberties  
6 Association?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I'm aware.

10 BY MR. COLES:

11 Q Okay. Is it your testimony that  
12 the records access officer in that case  
13 provided or conducted an individualized  
14 determination of the privacy exemption for all  
15 those 81,000 officers?

16 MS. QUINN: Objection.

17 You can answer.

18 THE WITNESS: I believe that the  
19 records access officer -- again, I was not  
20 that person, but the request was for  
21 similar records. So in an individual -- so  
22 there was no need to do a line by line of  
23 every -- of all 81,000-plus officers. I  
24 believe it was the determination to give  
25 out information -- limited information

1 KERRY JAMIESON

2 about cases.

3 So from my understanding, pending  
4 cases, which means cases that were pending  
5 at the CCRB or are pending in the APU were  
6 not included in that disclosure. Cases  
7 that were mediated were not just included  
8 in that disclosure. I believe cases that  
9 were referred were not included in that  
10 disclosure.

11 So I do believe that the records  
12 access officer made a determination based  
13 on -- that -- those records, whether or not  
14 they were substantiated or unsubstantiated,  
15 unfounded, exonerated, that did not go  
16 to -- that did not warrant the assertion of  
17 that privacy exemption.

18 BY MR. COLES:

19 Q Is it your testimony she looked at  
20 all of the claims for the 81,000 officers  
21 claim by claim?

22 MS. QUINN: Objection.

23 You can answer.

24 THE WITNESS: That's not my  
25 testimony. My testimony is that the

1 KERRY JAMIESON

2 request was for types of records that apply  
3 to many officers, and the determination was  
4 made as to which records would be released.  
5 But all the records are similar.

6 So in the sense that whether the  
7 outcome of the case, whether it's  
8 substantiated, unsubstantiated, exonerated,  
9 unfounded, did not go -- did not warrant  
10 assertion of the unwarranted invasion of  
11 privacy exception.

12 BY MR. COLES:

13 Q How could you reach that  
14 conclusion with any confidence without doing a  
15 file-by-file, officer-by-officer review?

16 MS. QUINN: Objection.

17 THE WITNESS: Well, no information  
18 other than the outcome of the case was  
19 released.

20 BY MR. COLES:

21 Q Let -- my question is, how could  
22 you know that releasing the information you  
23 did wouldn't invade the privacy at least of  
24 some of those officers without doing --

25 A Again --

1 KERRY JAMIESON

2 Q -- a case-by-case analysis?

3 A Again, that's -- the exception is  
4 a permissive one. So there's no requirement  
5 that the agency asserted at all.

6 So, again, the premise is that  
7 all -- when a FOIL request comes in, that the  
8 records should be released. It is -- FOIL  
9 exceptions are supposed to be narrowly  
10 construed, and it's up to the agency to  
11 determine whether or not to assert a  
12 permissive exemption. So we're not required  
13 to assert it at all.

14 Q Okay. Is there anything you want  
15 to add to your answer?

16 A No.

17 Q Do you believe that the CCRB has  
18 an obligation to maintain the privacy of  
19 officer personnel records under 87(2)(b)?

20 MS. QUINN: Objection.

21 I'm going to instruct the witness  
22 not to answer as to what she believes.

23 BY MR. COLES:

24 Q When I say "you," I'm talking  
25 about the CCRB because you're a 30(b)(6)

1 KERRY JAMIESON

2 witness.

3 THE WITNESS: Should I answer?

4 MS. QUINN: Yes, you can answer.

5 THE WITNESS: Can you repeat the  
6 question? I'm sorry.

7 MR. COLES: She'll read it back to  
8 you.

9 (Previous question read back.)

10 THE WITNESS: I believe the CCRB  
11 has an obligation to follow the FOIL law.

12 BY MR. COLES:

13 Q Okay. Can you answer yes or no to  
14 my question?

15 MS. QUINN: Objection.

16 You can answer.

17 THE WITNESS: I don't know that  
18 your question can be answered yes or no.

19 BY MR. COLES:

20 Q Why not?

21 A You're saying do I -- that we have  
22 obligations to protect the privacy? We have  
23 obligations to provide the -- to -- to follow  
24 the law.

25 Q Is there anything you want to add

1 KERRY JAMIESON

2 to your answer?

3 A No.

4 Q Okay. And is it fair to say that  
5 you can't answer the question yes or no  
6 whether or not the CCRB believes it has an  
7 obligation and responsibility to maintain the  
8 privacy rights of officers?

9 MS. QUINN: Objection.

10 You can answer.

11 THE WITNESS: Well, I think we  
12 have an obligation to protect personal  
13 identifying information about these  
14 officers, and we certainly do that, and we  
15 will redact any information that falls into  
16 that category. We do that for not for just  
17 for officers but for civilians and anyone  
18 else's records.

19 And as an agency, we're subject to  
20 identifying information law, so we do  
21 follow that to the extent it is not  
22 inconsistent with FOIL. So we do protect  
23 privacy in those ways. So -- but the  
24 privacy exception is not asserted as it  
25 relates to the outcome of the case.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Do you know whether or not the  
4 FOIL officer did a file-by-file or  
5 case-by-case analysis of those 81,000 officers  
6 to determine whether or not the safety  
7 exemption in the FOIL law applied?

8 MS. QUINN: Objection.

9 You can answer.

10 THE WITNESS: I was not the person  
11 who did that, but I can assume that she did  
12 not go through every single one. But,  
13 again, is also making the -- again, these  
14 are permissive exceptions. So the agency  
15 is not required to assert any of them.

16 BY MR. COLES:

17 Q Okay. Is it your --

18 MS. QUINN: Excuse me. Can we --  
19 are we still working with the exhibit? If  
20 not, can we put the witness back on.

21 MR. COLES: You can move the  
22 exhibit down.

23 MS. QUINN: Thank you.

24 BY MR. COLES:

25 Q Is it your testimony that the CCRB



1 KERRY JAMIESON  
2 does not consider it an obligation to apply  
3 the safety exemption when the release of  
4 documents may put officers at risk?

5 MS. QUINN: Objection.

6 You can answer.

7 THE WITNESS: I believe that if  
8 the -- if the records access officer has  
9 any reason to assert it, then the records  
10 access officer probably would. However,  
11 there's no requirement that the agency  
12 assert that exception at all.

13 BY MR. COLES:

14 Q But in this case, your testimony  
15 is the records access officer couldn't have  
16 looked at all the 81,000 officers. So my  
17 question to you is, how can you have any  
18 confidence that some of those documents didn't  
19 create safety risks for these subject  
20 officers?

21 MS. QUINN: Objection.

22 You can answer that.

23 THE WITNESS: The only documents  
24 that were released was basically an  
25 officer's name and whether or not -- a case

1 KERRY JAMIESON

2 number and whether or not -- and what the  
3 outcome of the case was. There was no  
4 additional documents. There's no facts  
5 about the case, nothing.

6 BY MR. COLES:

7 Q You didn't look at the cases on a  
8 case-by-case basis to determine if that  
9 information in certain cases may, in fact,  
10 create a risk of safety. Is that fair?

11 A Again, I'm not the person who did  
12 that, but I'm pretty sure that she did not go  
13 through line by line all 81,000. However, I'm  
14 confident that she did not believe that there  
15 was any basis for asserting that exception.

16 Q Okay. Do you know what analysis  
17 she provided or undertook in order to reach  
18 that conclusion?

19 A I can't answer that.

20 Q Does the --

21 A I can only follow the law.

22 Q Does the CCRB have a policy that,  
23 in order to protect the safety of officers, a  
24 case-by-case, file-by-file review should be  
25 done of every FOIL request?

1 KERRY JAMIESON

2 MS. QUINN: Objection.

3 You can answer.

4 THE WITNESS: We have a policy  
5 that each FOIL request is evaluated on a  
6 case-by-case basis. Each FOIL request.  
7 And if there is an applicable FOIL  
8 exemption that the agency chooses to  
9 assert, and we're talking about permissive  
10 ones, then it's up to the records access  
11 officer whether or not to assert it.

12 MR. COLES: Can I have my question  
13 back, please. I'm not sure that was  
14 exactly responsive, and I want to make sure  
15 that you and I are on the same page in this  
16 area. So I'm going to ask the court  
17 reporter to read it back.

18 (Previous question read back.)

19 THE WITNESS: So we do a  
20 case-by-case analysis of each FOIL request.  
21 I don't know if that answers your question.  
22 And to the extent that the records access  
23 officer determines that an exception should  
24 be asserted, that person will assert it.

25 ///

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. I guess I don't want to  
4 belabor this, but just so we have a clear  
5 record, how could anyone at the CCRB know  
6 whether or not the safety exemption applies if  
7 it doesn't -- if it doesn't look at every  
8 single file that is being produced?

9 MS. QUINN: Objection.

10 You can answer.

11 THE WITNESS: CCRB isn't required  
12 to assert or look for any of those FOIL  
13 exemptions. They're permissive exemptions.  
14 So there's no requirement that the agency  
15 engage in any analysis. To the extent that  
16 the records access officer does and chooses  
17 to assert it, then the records access  
18 officer can.

19 BY MR. COLES:

20 Q And the analysis you just -- or  
21 the answer you just gave applies to the safety  
22 exemption, in the CCRB's view?

23 A That applies to every permissive  
24 exemption.

25 Q Including --

1 KERRY JAMIESON

2 A There's --

3 Q Including the safety exception?

4 A Yes. So permissive -- that is a  
5 permissive exemption.

6 Q Does it -- is it -- has it ever  
7 been raised as a concern at the CCRB that not  
8 providing or not enforcing the safety  
9 exclusion might in fact create real-world  
10 risks for police officers in the field?

11 MS. QUINN: Objection.

12 THE WITNESS: Well --

13 MS. QUINN: You can answer.

14 THE WITNESS: I can tell you  
15 from -- so it depends on what the FOIL  
16 request is. So a FOIL request for officer  
17 histories, which, as I mentioned before,  
18 just says the officer's name, a case  
19 number, and what the outcome of the case  
20 is, and has no information, I don't believe  
21 there's any basis for raising a life and  
22 safety exception for that. However, if  
23 there's a different type of FOIL request  
24 that involves more documents, then the  
25 agency does assert the life and safety.

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2 So it's not a matter that the  
3 agency doesn't assert that exception. It  
4 certainly does. However, with respect to  
5 officer history, which is what I believe  
6 you are asking about, then that is not --  
7 then I don't believe that that exception --  
8 the records access officer didn't believe  
9 that that exception was applicable and  
10 needed to be asserted.

11 BY MR. COLES:

12 Q Okay. And then we can close this  
13 down, but you reached that conclusion without  
14 doing a file-by-file review, correct?

15 MS. QUINN: Objection.

16 You can answer.

17 THE WITNESS: I'm not -- I didn't  
18 do it so I can't say, but I -- I presume  
19 that she did not review 81,000 records.

20 BY MR. COLES:

21 Q All right. Okay. And presumably  
22 she didn't make any review as to whether or  
23 not the release of records would affect the  
24 collective bargaining rights of the individual  
25 officers; is that correct?

1 KERRY JAMIESON

2 MS. QUINN: Objection.

3 You can answer.

4 THE WITNESS: Well, I don't  
5 believe that there's an exception for that.

6 BY MR. COLES:

7 Q Okay. Are you aware of -- well,  
8 are you familiar with the collective  
9 bargaining agreements of the -- of the unions  
10 who are plaintiffs in this action?

11 MS. QUINN: Objection.

12 THE WITNESS: No.

13 MS. QUINN: That's outside the  
14 scope of this deposition.

15 BY MR. COLES:

16 Q Okay. Do you know whether or not,  
17 as -- in your position as a records access  
18 officer, the collective bargaining agreements  
19 of the plaintiffs in this action affect the  
20 release of unsubstantiated allegations?

21 MS. QUINN: Objection.

22 You can answer.

23 THE WITNESS: I don't believe that  
24 there is a FOIL exception for collective  
25 bargaining agreements. There's a FOIL

1 KERRY JAMIESON  
2 exception for negotiations around  
3 collective bargaining agreements, but there  
4 is no exception under FOIL. So I don't  
5 believe that we can even assert that.

6 MS. QUINN: Tony, can I just --  
7 I'm just going to take a 30-second break,  
8 if you don't mind. It's going to be  
9 probably more like a minute.

10 MR. COLES: Okay. We'll take a  
11 one-minute break.

12 MS. QUINN: Thank you very much.

13 MR. COLES: Are you going to speak  
14 to the witness? Is that what you want to  
15 do?

16 MS. QUINN: Yes, I'd like to speak  
17 to the witness. Thank you.

18 THE VIDEOGRAPHER: We are off  
19 record at 3:53 p.m.

20 (Break taken from 3:53 p.m. to  
21 3:54 p.m.)

22 BY MR. COLES:

23 Q Did your counsel just speak to you  
24 about the question that I had asked?

25 THE VIDEOGRAPHER: Sorry, Counsel.



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2 We are back on record at 3:54 p.m.

3 BY MR. COLES:

4 Q I'm sorry. Did your counsel just  
5 speak to you about the question that I had  
6 asked?

7 A No.

8 Q Okay. Did she speak to you about  
9 any of the questions that I had asked?

10 A No.

11 Q Okay. Are you familiar with  
12 87(2)(c), the exemption in that provision --

13 A Yes.

14 Q -- of the FOIL law?

15 Okay. And are you aware that it  
16 says that there's an exemption that if  
17 disclosed would impair present or imminent  
18 contract or collective bargaining  
19 negotiations?

20 A Yes, I'm aware of that exemption.

21 Q Okay. And is it your testimony  
22 that the CCRB is free to release documents  
23 that may be prevented or that may be addressed  
24 or maintained as confidential in the  
25 collective bargaining agreement?

1 KERRY JAMIESON

2 MS. QUINN: Objection.

3 You can answer.

4 THE WITNESS: I'm not sure I  
5 understand your question. Can it be read  
6 back to me, please?

7 BY MR. COLES:

8 Q I'll rephrase it to make it clear.

9 Is it the CCRB's position that it  
10 can release documents that collective  
11 bargaining agreements require to be  
12 confidential?

13 A I believe the CCRB's records  
14 access officer would follow the FOIL law which  
15 -- which makes it permissive to assert that  
16 the -- that if there's information that be  
17 relevant to a collective bargaining  
18 negotiation.

19 Q And it's the CCRB's position that  
20 it could release that information under the  
21 FOIL law even though the information may be  
22 protected by a collective bargaining agreement  
23 entered into between the City and the  
24 officer's union?

25 MS. QUINN: Objection.

1 KERRY JAMIESON

2 You can answer.

3 THE WITNESS: I believe the FOIL  
4 law is -- it's a permissive exemption so it  
5 can be asserted or not asserted. There's  
6 no requirement that it is.

7 BY MR. COLES:

8 Q So the answer to my question is  
9 yes, you believe the CCRB can do that?

10 A Under FOIL, that record could be  
11 released, yes.

12 Q Okay. And is it fair to say the  
13 CCRB does not make an analysis of what the  
14 collective bargaining agreements deem as  
15 confidential or not as confidential?

16 MS. QUINN: Objection.

17 You can answer.

18 THE WITNESS: I don't believe that  
19 that falls within the exception, any of the  
20 FOIL exceptions.

21 BY MR. COLES:

22 Q My question was a little  
23 different. My question is, is whether or not  
24 you do an analysis of whether -- of how the  
25 collective bargaining agreement treats certain

1 KERRY JAMIESON

2 documents in making your -- in making the  
3 agency's FOIL determination.

4 MS. QUINN: Objection.

5 You can answer.

6 THE WITNESS: That agency follows  
7 the FOIL law, and the FOIL law talks about  
8 87 -- I believe it's (2)(c) talks about  
9 imminent or present contract negotiations  
10 and it's permissive. So I believe your  
11 question was about existing contracts. So  
12 I don't -- so, again, we would follow the  
13 FOIL law.

14 BY MR. COLES:

15 Q Okay. Is there anything more you  
16 want to add to your answer about what that  
17 exception means?

18 A No.

19 Q Okay. You said you came to the  
20 CCRB in 2017, correct?

21 A Yes.

22 Q Okay. I want to show you the next  
23 exhibit. It's -- I think it will be  
24 Exhibit 3. It is Tab 11. It's a case called  
25 Luongo versus Records Access Officer, and it's

1 KERRY JAMIESON

2 dated March 2017.

3 (Exhibit Number 3, Document  
4 Titled "Luongo versus Records  
5 Access Officer," was marked for  
6 identification.)

7 BY MR. COLES:

8 Q Okay. The first question, ma'am,  
9 is whether or not you're familiar with this  
10 case.

11 A Yes, I'm familiar with it.

12 Q Okay. I'd like -- when did you  
13 first become familiar with the case?

14 A When I started at the agency.

15 Q Okay.

16 MR. COLES: Can we go to page 3.  
17 The next page, please. Oh, that's fine.  
18 Page 3.

19 BY MR. COLES:

20 Q How was it how you became -- what  
21 were the circumstances under which you became  
22 familiar with this case?

23 A When I began at the agency, I read  
24 numerous FOIL cases to become more familiar  
25 with FOIL and to understand the law generally

1 KERRY JAMIESON

2 speaking. So . . .

3 Q And you understood that -- you  
4 understood that this case had to do with the  
5 release of disciplinary records regarding  
6 Officer Daniel Pantaleo, correct?

7 A Yes.

8 Q Okay. And you understand that the  
9 CCRB denied the request, right?

10 A Yes, that's my understanding.

11 Q Okay. On the page that's now on  
12 the screen, there's a paragraph that's in the  
13 highlight.

14 Do you see that?

15 A Yes.

16 Q It says: "On December 24, 2014,  
17 CCRB denied the request, citing the statutory  
18 exemption from disclosure provided for police  
19 personnel records contained in Public Officers  
20 Law and civil rights law."

21 You see that, right?

22 A Yes.

23 Q Okay. I want you to focus on the  
24 next sentence.

25 "In addition to the statutory

1 KERRY JAMIESON

2 exemptions, CCRB noted that the request for  
3 records relating to unsubstantiated matters  
4 would constitute an unreasonable invasion of  
5 privacy?"

6 Do you see that?

7 A Yes, I see it.

8 Q Okay.

9 MS. QUINN: Can I just ask that we  
10 scroll down to the paragraph at the bottom  
11 of the first column? I just want to see  
12 the paragraph preceding.

13 Thank you.

14 BY MR. COLES:

15 Q Do you have an understanding as to  
16 the basis for the CCRB's conclusion that the  
17 request for records related to unsubstantiated  
18 matters would constitute an unreasonable  
19 invasion of privacy?

20 A I did not work at the CCRB at the  
21 time of that letter. So no, I don't know.

22 Q Okay. But wasn't that the  
23 practice at the CCRB at the time you joined in  
24 August 2017?

25 MS. QUINN: Objection.

1 KERRY JAMIESON

2 You can answer.

3 THE WITNESS: I don't know that  
4 your statement is correct.

5 BY MR. COLES:

6 Q Okay. Well, is it your view that  
7 in 2017 the statement here, that  
8 "unsubstantiated matters would constitute an  
9 unreasonable invasion of privacy," did not  
10 reflect CCRB policy at that time?

11 A I believe the statement was made  
12 in 2014. But, again, having not worked at the  
13 agency at that time, I can assume that the  
14 FOIL officer followed the law and chose to  
15 assert a permissive exception, but I --

16 Q I'm sorry. But it's broader than  
17 that. There the FOIL officer is saying  
18 unsubstantiated matters by definition would  
19 constitute an unreasonable invasion of  
20 privacy.

21 Do you see that?

22 MS. QUINN: Objection.

23 You can answer.

24 THE WITNESS: I mean, I see the  
25 highlighted portion of the decision.



1 KERRY JAMIESON

2 Did you have a question about -- I  
3 see that that's what it says, but I'm -- I  
4 don't know what your question is.

5 BY MR. COLES:

6 Q Well, do you have any reason to  
7 believe that that didn't reflect CCRB policy  
8 at the time?

9 MS. QUINN: Objection.

10 You can answer.

11 THE WITNESS: I don't have -- I'm  
12 sorry. I don't have enough information to  
13 answer that question.

14 BY MR. COLES:

15 Q Well, you're here as the 30(b)(6)  
16 witness. Did you make any effort to determine  
17 the history of the CCRB's policy regarding the  
18 release of unsubstantiated matters before this  
19 deposition?

20 MS. QUINN: Objection.

21 You can answer.

22 THE WITNESS: Yes, I'm aware of  
23 the CCRB's policy. However, in 2014, what  
24 was the basis of -- what was the reasoning  
25 behind why that particular exception was

1 KERRY JAMIESON

2 asserted, I cannot say.

3 BY MR. COLES:

4 Q Did you make any effort to  
5 determine why that policy was reflected in  
6 Exhibit 3?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I don't know that a  
10 policy was -- is reflected there. What I  
11 see is a response to an individual FOIL  
12 request.

13 BY MR. COLES:

14 Q Okay. Are you familiar with a  
15 document on the CCRB Website called "FOIL  
16 Subject Matter List"?

17 A I perused it. I don't know it  
18 in-depth.

19 Q Okay. I'm going to put it up.

20 MR. COLES: Evan, can you put up  
21 the exhibit.

22 MS. QUINN: I'm sorry. Where did  
23 you say this was from?

24 MR. COLES: We're marking as  
25 Exhibit 4 a document from the CCR Website

1 KERRY JAMIESON  
2 entitled "FOIL Subject Matter List."  
3 (Exhibit Number 4, FOIL Subject  
4 Matter List from CCRB Website, was  
5 marked for identification.)

6 BY MR. COLES:

7 Q Ms. Jamieson, this is the document  
8 that you've perused?

9 A Yes.

10 Q Okay. And can you explain what  
11 this document reflects?

12 A It reflects that the FOIL law  
13 requires that every agency have a subject  
14 matter list that generally describes records  
15 that it has in its possession.

16 Q Okay. And if you look at the  
17 first paragraph over here, about three lines  
18 up from the bottom there's a sentence that  
19 begins with the word "All." Do you see that?

20 It says: "All government records  
21 are subject to the exemptions stipulated in  
22 FOIL."

23 Do you see that?

24 A Uh-huh.

25 Q Does that reflect CCRB policy?

1 KERRY JAMIESON

2 A That reflects the FOIL law.

3 Q Right. But isn't it true that as  
4 a matter of policy the CCRB does not provide  
5 or use certain exemptions that are stipulated  
6 in the FOIL law?

7 A No, that's not true.

8 MS. QUINN: Okay.

9 BY MR. COLES:

10 Q Isn't it true that the CCRB  
11 releases unsubstantiated allegations even  
12 though the Committee on Open Government, for  
13 instance, has said that it may, in fact, treat  
14 those allegations as privacy under the FOIL  
15 law?

16 A The -- the agency has released  
17 officer histories that indicate that case was  
18 unsubstantiated.

19 Q Okay. So don't you think this  
20 sentence that the CCRB has on its Website is  
21 somewhat misleading? Because it would allow  
22 officers to believe that the CCRB is, in fact,  
23 going to apply the exemptions stipulated in  
24 FOIL on a case-by-case basis?

25 MS. QUINN: Objection.

1 KERRY JAMIESON

2 You can answer.

3 THE WITNESS: I don't believe it's  
4 misleading. It says -- it reflects what  
5 the law is, that all records are subject to  
6 exemption, in which they -- which is true.

7 BY MR. COLES:

8 Q Anything you want to add to that  
9 answer?

10 A No. I believe that it's not  
11 misleading.

12 Q Okay. Is there any document you  
13 know that the CCRB has released to the public  
14 where it says that as a matter of policy  
15 unsubstantiated and unfounded allegations are  
16 not subject to the privacy exemption of FOIL?

17 MS. QUINN: Objection. You can  
18 answer.

19 THE WITNESS: Not that I'm aware  
20 of.

21 BY MR. COLES:

22 Q Are you -- are you aware of any  
23 document that the CCRB has released to the  
24 public where it said it will not, as a matter  
25 of discretion, apply the FOIL exemptions on a

1 KERRY JAMIESON

2 case-by-case basis?

3 MS. QUINN: Objection. You can  
4 answer.

5 THE WITNESS: I'm sorry. Can you  
6 read back the question?

7 MR. COLES: Sure.

8 (Previous question read back.)

9 THE WITNESS: Not that I'm aware  
10 of.

11 BY MR. COLES:

12 Q Okay. You said you were aware --

13 MR. COLES: You can take the  
14 exhibit down, Evan.

15 BY MR. COLES:

16 Q Ma'am, you said you were aware of  
17 the 81,000 officer records that were released  
18 to the New York Civil Liberties Association?

19 A I'm aware that there was a  
20 disclosure --

21 Q That's right.

22 A -- to New York Civil Liberties  
23 Union.

24 Q Were you involved in the decision  
25 to make that disclosure?

1 KERRY JAMIESON

2 A No, I was not.

3 Q Okay. Do you know who made the  
4 determination to release those documents?

5 MS. QUINN: Objection. I'm going  
6 to instruct the witness only to answer as  
7 it doesn't impinge on attorney-client  
8 privilege.

9 THE WITNESS: I don't know the  
10 answer to that.

11 BY MR. COLES:

12 Q Do you know whether or not the  
13 executive director of the CCRB was involved in  
14 that decision?

15 A From my understanding, he had some  
16 involvement. I'm not 100 percent sure exactly  
17 what that was.

18 Q What is your understanding of the  
19 involvement that he did have?

20 A It's my understanding that he  
21 forwarded the FOIL request to the records  
22 access officer.

23 Q Okay. And do you know whether or  
24 not he forwarded it with a cover email of any  
25 sort?

1 KERRY JAMIESON

2 MS. QUINN: Objection.

3 This witness -- I think this is outside the  
4 scope of the deposition.

5 BY MR. COLES:

6 Q You can answer the question.

7 MS. QUINN: This deposition is  
8 on -- no, I'm instructing her not to  
9 answer. This is on FOIL policies and  
10 procedures.

11 MR. COLES: I think this deals  
12 directly with FOIL policy and procedures.  
13 I would like an answer to the question.

14 MS. QUINN: Can you rephrase the  
15 question?

16 MR. COLES: No. She can read it  
17 back.

18 MS. QUINN: All right. Let's read  
19 it back.

20 (Previous question read back.)

21 THE WITNESS: I don't recall. I  
22 don't think so, but I don't recall.

23 BY MR. COLES:

24 Q Do you know whether or not he  
25 spoke to the records access officer about that



1 KERRY JAMIESON

2 FOIL request?

3 A I don't know.

4 Q Now, it's typical that FOIL  
5 requests are sent to the records access  
6 officer, right?

7 A Actually, we get a lot of times  
8 they come through investigators. People don't  
9 always know who to send them to. So they get  
10 forwarded to the records access officer  
11 regardless of how they come into the agency.

12 Q But someone who's been, say, on  
13 the board of the CCRB or involved in the CCRB  
14 for many years would understand, someone like  
15 Mr. Dunn, that the records access officer is  
16 the person who handles and receives FOIL  
17 requests according to City regulations?

18 MS. QUINN: Objection.

19 You can answer.

20 THE WITNESS: I'm not sure I  
21 understand your question.

22 BY MR. COLES:

23 Q Well, I'm -- why don't we move to  
24 the next exhibit. It's Tab 4.

25 Okay. This is the Declaration of

1 KERRY JAMIESON

2 Christopher Dunn.

3 Do you see that?

4 A I see what's on the screen.

5 MR. COLES: Okay. And we're going  
6 to mark this Declaration in the exhibits as  
7 the next exhibit in this deposition.

8 (Exhibit Number 5, Declaration  
9 of Christopher Dunn, Dated 7/23/20,  
10 was marked for identification.)

11 BY MR. COLES:

12 Q And you understand that Mr. Dunn  
13 has been involved with overseeing the CCRB for  
14 many years, correct?

15 MS. QUINN: Objection.

16 You can answer.

17 THE WITNESS: I don't know what  
18 you mean by "overseeing." I know he shows  
19 up at board meetings.

20 MR. COLES: Okay. Can we go to  
21 the next page, please, Evan.

22 BY MR. COLES:

23 Q Okay. You see Mr. Dunn says at  
24 paragraph 5:

25 "As part of its police

1 KERRY JAMIESON

2 accountability work, the NYCLU has been deeply  
3 involved in civilian oversight of the NYPD."

4 Do you see that?

5 A Yes.

6 Q And he says at the bottom of that  
7 paragraph, that he's attended monthly meetings  
8 with the CCRB for nearly 20 years?

9 A I see that sentence.

10 Q And then he goes on to say: "I  
11 have extensive knowledge of CCRB operations,  
12 including its data systems"?

13 A I see the sentence.

14 Q Okay. And you have no reason to  
15 believe that isn't true, correct?

16 A I don't know how to answer that.

17 Q Okay. And Mr. -- do you know

18 Mr. Dunn?

19 MS. QUINN: Objection.

20 Do not answer that question.

21 Mr. Coles, this is going beyond

22 the scope of this deposition. This is on

23 FOIL. This is on FOIL policy and

24 procedures.

25 MR. COLES: Well, exactly. We're

1 KERRY JAMIESON  
2 talking about whether or not the CCRB  
3 follows FOIL policy and procedures and what  
4 procedures they follow.

5 MS. QUINN: But I don't know what  
6 that has to do with Mr. Dunn and his  
7 position and whether she knows him.

8 I believe that the judge ordered  
9 us to keep this 30(b)(6) to FOIL policies  
10 and procedures.

11 (Exhibit Number 6, Exhibit A to  
12 Declaration of Christopher Dunn,  
13 was marked for identification.)

14 BY MR. COLES:

15 Q Okay. I'm going to show you  
16 Exhibit A to Mr. Dunn's affidavit. It's a  
17 letter dated July 9, 2020, to the executive  
18 director of CCRB.

19 Okay. And you see it's a FOIL  
20 request for NYPD officer allegation histories?  
21 Do you see that?

22 A Zoom in, please, and make it a  
23 little larger?

24 Thank you.

25 Q Have you seen this letter before?

1 KERRY JAMIESON

2 A I -- it's possible, but I'm not  
3 really sure. I don't -- I may not have.

4 Q What is your recollection as to  
5 why you might have seen it previously?

6 MS. QUINN: Objection.

7 I'm going to instruct the witness  
8 to only answer as it doesn't impinge on  
9 attorney-client privilege.

10 THE WITNESS: I don't have any  
11 independent recollection of seeing this.  
12 It's possible that I have, but I don't -- I  
13 don't remember now.

14 BY MR. COLES:

15 Q Okay. Do you have any information  
16 or knowledge as to why Mr. Dunn sent this  
17 letter, this FOIL request, to the executive  
18 director instead of to the records access  
19 officer of the CCRB?

20 MS. QUINN: Objection.

21 I'm going to instruct the witness  
22 not to answer.

23 Mr. Coles, this is outside the  
24 scope. You were -- the judge did not grant  
25 you leave to take a 30(b)(6) on your

1 KERRY JAMIESON

2 requested Topic 2, which was discussion  
3 about NYCLU. This is FOIL policies and  
4 procedures.

5 MR. COLES: Yes, we are talking  
6 about FOIL policy and procedures. I would  
7 like an answer to that question.

8 MS. QUINN: I'm going to instruct  
9 the witness not to answer. Topic 2 was  
10 rejected by the judge. FOIL policies and  
11 procedures.

12 BY MR. COLES:

13 Q Are you going to follow that  
14 instruction?

15 A Yes.

16 Q Okay. Would you tell me whether  
17 or not you have any information as to the  
18 circumstances under which this letter was sent  
19 to Mr. Darche by Mr. Dunn?

20 MS. QUINN: I'm instructing the  
21 witness not to answer that for the same  
22 reason. It's outside the scope of this  
23 deposition.

24 MR. COLES: It actually affects  
25 the responses to FOIL, which is within the

1 KERRY JAMIESON

2 scope of the deposition. But we can take  
3 that up offline if you're directing her not  
4 to answer.

5 MS. QUINN: I prefer to take that  
6 offline.

7 MR. COLES: Okay. As I did with  
8 your colleague, I object to all your  
9 directions not to answer, but I'm not going  
10 to deal with them one by one. We'll deal  
11 with them offline.

12 BY MR. COLES:

13 Q Okay. I'd like to next show you,  
14 Ms. Jamieson, as the next exhibit a letter  
15 from the Police Benevolent Association to Fred  
16 Davie, the chair of the CCRB, dated July 8,  
17 2020.

18 CERTIFIED STENOGRAPHER:

19 Mr. Coles, was that last document to be an  
20 exhibit?

21 MR. COLES: Yes. And this will be  
22 the next exhibit.

23 (Exhibit Number 7, Letter from  
24 Patrick J. Lynch, President of the  
25 Police Benevolent Association, to

1 KERRY JAMIESON

2 Fred Davie, dated 7/8/20, was  
3 marked for identification.)

4 BY MR. COLES:

5 Q Have you seen --

6 MR. COLES: Is this Exhibit 5 now?

7 CERTIFIED STENOGRAPHER: I am not  
8 sure.

9 BY MR. COLES:

10 Q Have you seen this July 8, 2020,  
11 letter before?

12 A Are there any additional pages to  
13 this?

14 Q I just want to know whether or not  
15 you've seen this letter before, the July 8th,  
16 2020, letter.

17 MS. QUINN: Objection.

18 THE WITNESS: I know that I saw --  
19 I'm sorry.

20 MS. QUINN: You can answer. You  
21 can answer.

22 THE WITNESS: I've seen a letter  
23 from the Police Benevolent Association with  
24 regard to FOIL. I don't know if it was  
25 this letter.



1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. What were the circumstances  
4 under which you saw it?

5 MS. QUINN: Objection.

6 I'm going to ask the witness --  
7 instruct the witness only to answer as long  
8 as it doesn't impinge on attorney-client  
9 privilege.

10 THE WITNESS: So I believe that  
11 the letter was sent to me to review and to  
12 come up with a response.

13 BY MR. COLES:

14 Q Did you, in fact, respond to the  
15 letter?

16 A The letter -- from my  
17 recollection, the letter that I received was  
18 multiple pages long. So I can't say just from  
19 what you have on the screen if that -- if this  
20 is the exact letter.

21 Q Okay. Did -- you received a  
22 letter from the PBA that was multiple pages  
23 long, correct? And if we go --

24 A Yes.

25 Q -- to the --

1 KERRY JAMIESON

2 MR. COLES: We can mark as the --  
3 what exhibit are we up to?

4 CERTIFIED STENOGRAPHER: Since I'm  
5 not handling them, I have not kept up with  
6 the numbers.

7 MR. COLES: Okay. We're going to  
8 go to the next exhibit, the -- go to the  
9 next page of this PDF.

10 MR. NORTH: This should be  
11 Exhibit 6 [sic].

12 MR. COLES: This will be 6-A  
13 [sic].

14 (Exhibit Number 7-A, Letter  
15 from Michael T. Murray to Jonathan  
16 Darche, dated 7/8/20, was marked  
17 for identification.)

18 BY MR. COLES:

19 Q This is a letter from the Office  
20 of General Counsel that's a number of pages  
21 long to the executive director of the CCRB.

22 Is this the letter you're  
23 referring to?

24 A I believe so. I believe that  
25 this -- I remember the longer letter.

1 KERRY JAMIESON

2 Q Okay. And did you, in fact,  
3 prepare a response to the letter?

4 A I did not.

5 Q Did anybody?

6 MS. QUINN: Objection.

7 You can answer.

8 THE WITNESS: Not to my knowledge.

9 I was the person that was supposed to  
10 respond and I did not.

11 BY MR. COLES:

12 Q And why did you choose not to  
13 respond?

14 MS. QUINN: Objection.

15 You can answer.

16 THE WITNESS: I didn't choose not  
17 to respond. The instant lawsuit was filed.

18 BY MR. COLES:

19 Q Why did that stop you from  
20 responding?

21 MS. QUINN: Objection. I'm going  
22 to instruct her not to answer as that  
23 impinges upon attorney-client privilege.

24 BY MR. COLES:

25 Q Did you prepare a draft of a

1 KERRY JAMIESON

2 response?

3 A No.

4 Q The letter is dated, what,  
5 July 8th? The lawsuit was not brought until a  
6 week later, approximately.

7 MS. QUINN: Objection. We're  
8 going into attorney-client-privileged  
9 matters, Tony.

10 I'm going to instruct her not to  
11 answer.

12 BY MR. COLES:

13 Q But my question is, why did you  
14 not respond between July 8th and the date of  
15 July 14th when this lawsuit was commenced?

16 MS. QUINN: Objection. This  
17 impinges upon attorney-client privilege.

18 I'm instructing the witness not to  
19 answer.

20 MR. COLES: I don't see how that  
21 could be attorney-client privilege, but  
22 we'll take that up off -- offline.

23 BY MR. COLES:

24 Q In this letter, are you aware that  
25 the PBA asked the CCRB to apply the FOIL

1 KERRY JAMIESON

2 exemptions to any FOIL request it received?

3 A From my recollection of the  
4 letter, it was asserting that the FOIL  
5 exemption should be applied.

6 Q Right. And what is -- since you  
7 didn't respond before, what would be your  
8 response today to this letter on behalf of --  
9 what would the CCRB's response today be to  
10 this letter?

11 MS. QUINN: Objection. To --  
12 objection.

13 You can answer.

14 THE WITNESS: I'm not sure that --  
15 are you saying that -- I'm just not sure  
16 what your question is. You're saying what  
17 would an answer to this multipage letter  
18 be?

19 BY MR. COLES:

20 Q No. Answer to the question that  
21 you just said that the letter presented to  
22 you, which is asking these -- whether or not  
23 the CCRB will apply the FOIL exemptions to all  
24 FOIL requests.

25 MS. QUINN: Objection. I'm going

1 KERRY JAMIESON

2 to instruct the witness not to answer as  
3 this impinges upon attorney-client  
4 privilege.

5 MR. COLES: I'm asking for the  
6 CCRB's position on this letter.

7 MS. QUINN: And I'm instructing  
8 the witness not to answer.

9 MR. COLES: I'd like to mark as  
10 the next exhibit a letter that the  
11 corporation counsel wrote to the Court  
12 disclosing a number of FOIL requests that  
13 the CCRB had responded to from June 12th to  
14 the date of the letter.

15 It's Tab 7, Evan.

16 (Exhibit Number 8, Letter from  
17 Dominique F. Saint-Fort to Judge  
18 Failla, dated 7/28/20; Letter from  
19 Rebecca G. Quinn n and Dominique  
20 Saint-Fort to Anthony P. Coles and  
21 Michael R. Hepworth, dated 7/28/20,  
22 was marked for identification.)

23 BY MR. COLES:

24 Q Okay. Just before we get to this  
25 specific letter, Ms. Jamieson, do you have any

1 KERRY JAMIESON  
2 information as to whether or not the request  
3 by NYCLU in the prior exhibit for CCRB  
4 records, the entire database, was the only  
5 FOIL request that CCRB received for the entire  
6 CCRB database?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I don't know.

10 BY MR. COLES:

11 Q Okay. Do you find it unusual that  
12 someone would ask for the entire CCRB  
13 database?

14 A Following the repeal of 50-a, we  
15 received numerous requests for information.  
16 So in that context, no.

17 Q Okay. But there was only one  
18 request for the entire database, to the best  
19 of your knowledge, correct?

20 A I don't know the answer to that.

21 Q If you look at the letter to the  
22 law department -- I'm going to ask Evan to  
23 turn to the second page, which is a letter  
24 addressed to DLA Piper.

25 Do you see that?

1 KERRY JAMIESON

2 A Yes.

3 Q Okay. And this letter identifies  
4 documents released by the CCRB between  
5 June 12th and July 24th.

6 MR. COLES: You'll see that, Evan,  
7 if you go to the next page.

8 BY MR. COLES:

9 Q Were you involved in the  
10 preparation of this letter?

11 A No.

12 Q Okay. Were you aware the letter  
13 was going out?

14 A Yes.

15 Q Okay. How did this letter come to  
16 be written?

17 MS. QUINN: Objection.

18 I'm going to instruct the witness  
19 not to answer, as that deals with -- first  
20 of all, this litigation is outside the  
21 scope, and second, it impinges on  
22 attorney-client privilege.

23 BY MR. COLES:

24 Q The letter lists a number of FOIL  
25 requests, 60 or so, 60-plus FOIL requests.



1 KERRY JAMIESON

2 Are you aware of that?

3 MS. QUINN: Objection.

4 You can answer.

5 THE WITNESS: I don't know the  
6 number.

7 BY MR. COLES:

8 Q Okay. But you know it's a large  
9 number of requests. You can tell just by  
10 looking at the letter. We'll scroll down the  
11 letter for you.

12 MR. COLES: Evan, why don't you go  
13 to the next couple of pages.

14 BY MR. COLES:

15 Q Okay. So it's more than three  
16 pages of bullet points of requests.

17 Do you -- were you involved in  
18 responding to any of those requests that were  
19 made and identified in this letter between  
20 June 12th and the date of the letter?

21 A No.

22 MS. QUINN: Can we see the second  
23 page? I don't see the -- all the requests  
24 listed in front of us.

25 ///

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Do you know whether or not the  
4 CCRB --

5 A Let me -- I'd actually like to  
6 amend my previous answer.

7 I might be aware of some of these  
8 requests but not all.

9 Q Okay. Do you know -- and these  
10 are -- if you add them together, it's a fairly  
11 large number. Do you know whether or not a  
12 file-by-file, case-by-case determination was  
13 made as to each of these responses?

14 MS. QUINN: Objection.

15 You can answer.

16 THE WITNESS: I -- some other -- I  
17 mean, just looking at this list now, some  
18 of the requests are fairly small for  
19 officers, therefore it's possible in those  
20 instances. There was, but --

21 There's a fly in here.

22 You know, it's hard -- it's hard  
23 to say whether in every single one. It  
24 looks like a lot of this information would  
25 have been data that was just pulled from an

1 KERRY JAMIESON

2 electronic database.

3 BY MR. COLES:

4 Q Okay. And in that case, each of  
5 the exemptions wouldn't have been reviewed on  
6 a file-by-file basis, right?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I don't -- each of  
10 them the exempt- -- I don't understand the  
11 question.

12 BY MR. COLES:

13 Q If the data was just pulled from a  
14 database and made available to the requesting  
15 person, then in that case the records access  
16 officer would not have looked at a  
17 case-by-case, file-by-file production of each  
18 of the complaints to determine whether or not  
19 an exemption applied, correct?

20 MS. QUINN: Objection.

21 THE WITNESS: I don't know that to  
22 be --

23 MS. QUINN: You can answer.

24 THE WITNESS: I don't know that to  
25 be the case. I don't know.

1 KERRY JAMIESON

2 BY MR. COLES:

3 Q Okay. But you think certainly  
4 it's possible that on all of these, it was not  
5 a case-by-case, file-by-file determination  
6 made as to each of the exemptions?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I'm not exactly sure  
10 what you mean when you say "case-by-case,  
11 file-by-file."

12 BY MR. COLES:

13 Q Okay. I mean before producing any  
14 information, a determination is made for each  
15 record that's produced, whether or not it  
16 falls within a FOIL exception.

17 A I would presume that the records  
18 access officer made a determination as to --  
19 from my understanding, actually, the officer  
20 histories do not contain certain records. So  
21 there was some evaluation of what information  
22 would be disclosed and what information would  
23 not be disclosed --

24 Q Do you know the --

25 A In response --

1 KERRY JAMIESON

2 Q I'm sorry. I'm sorry. Please  
3 finish your answer.

4 A In response to each individual  
5 FOIL request.

6 Q Okay. Do you know the extent of  
7 the evaluation that was made with regard to  
8 each request?

9 A Well, I do know that the officer  
10 histories that were given out did not, for  
11 instance, include a pending CCRB case or a  
12 pending APU case.

13 Q Okay.

14 A And it did not include a mediated  
15 case or a mediated-attempted case.

16 Q Right. But that wasn't my  
17 question. My question is, is whether or not  
18 on all of these documents that were produced  
19 each specific situation was reviewed to  
20 determine whether or not one of the FOIL  
21 exemptions applied.

22 MS. QUINN: Can we see the  
23 other -- this is a long list, and I don't  
24 see all the requests.

25 MR. COLES: You can scroll through

1 KERRY JAMIESON

2 the list.

3 THE WITNESS: So, again, it's  
4 possible that -- the records access officer  
5 does an analysis. Like, they take each  
6 FOIL request individually.

7 Now, for officer histories, I know  
8 that there are certain categories of  
9 information that just were not going to be  
10 included in the -- in the officer  
11 histories. I mentioned those before. So  
12 I'm not going to repeat them again. So  
13 those weren't given out in any situation.

14 So there was an analysis done as  
15 to what information could be released  
16 through an officer history. And from my  
17 understanding, that was the information  
18 that was released. So there was an  
19 analysis done about what would be in an  
20 officer history that we would produce.

21 BY MR. COLES:

22 Q So many of these releases included  
23 unsubstantiated claims. Are you aware of  
24 that?

25 A I would presume so.

1 KERRY JAMIESON

2 Q Okay. Do you know whether or not  
3 any claim-by-claim analysis was done as to  
4 whether or not the release of unsubstantiated  
5 claims created a unwarranted invasion of  
6 privacy?

7 MS. QUINN: Objection.

8 You can answer.

9 THE WITNESS: I believe that the  
10 records access officer would have done an  
11 analysis based on FOIL, and I don't know  
12 that the records access officer would have  
13 asserted that particular privilege as it is  
14 permissive.

15 MS. QUINN: And I'm sorry. We've  
16 reached the 90-minute deadline for this  
17 deposition.

18 MR. COLES: Well, I have a few  
19 more questions.

20 MS. QUINN: Well, I'm sorry. We  
21 have a 90-minute time limit set by the  
22 Court. So we have to end it.

23 MR. COLES: No, we actually had a  
24 break. You took the -- you took the  
25 witness out. You've asked [sic] a lot of

1 KERRY JAMIESON

2 objections --

3 MS. QUINN: And we incorp-

4 MR. COLES: -- objections --

5 MS. QUINN: -- and we incorporated  
6 those into the -- the time.

7 MR. COLES: Okay. Well, I have no  
8 --

9 MS. QUINN: We added additional  
10 minutes on to accommodate the breaks.

11 MR. COLES: How many minutes have  
12 we run?

13 MS. QUINN: 90 minutes.

14 MR. COLES: So you haven't added  
15 additional minutes on.

16 MS. QUINN: We've run 90 minutes  
17 of active questioning on the record,  
18 Mr. Coles. One hour and 35 minutes, to be  
19 precise.

20 MR. COLES: Okay. The plaintiffs  
21 have more questions of this witness. Are  
22 you closing the deposition?

23 MS. QUINN: I'm closing the  
24 deposition pursuant to the order by Judge  
25 Failla. 90 minutes.



1 KERRY JAMIESON

2 MR. COLES: Okay. Ms. Jamieson,  
3 thank you for showing up. I do have some  
4 issues with the objections that Counsel  
5 made. So we may be seeing you again. But  
6 either way, thank you for your time today.  
7 And subject to my objections and the right  
8 to recall you, we'll close the deposition  
9 for now because your attorney won't allow  
10 you to answer any more questions.

11 THE VIDEOGRAPHER: Okay. If  
12 that's everything, this concludes today's  
13 deposition of Kerry Jamieson. The time off  
14 record is 4:38 p.m. Eastern Time.

15 CERTIFIED STENOGRAPHER:  
16 Ms. Quinn, can I get your side's order for  
17 the record, please?

18 MR. COLES: Ms. Jamieson, you can  
19 leave the deposition if you'd like to.  
20 Thank you for your time.

21 MS. QUINN: I'm sorry. I didn't  
22 hear that. Can you say that again?

23 CERTIFIED STENOGRAPHER: Can I get  
24 your side's order for the transcript?

25 MS. QUINN: My side's order?

1 CERTIFIED STENOGRAPHER: Yes. Do  
2 you need a copy of the transcript?

3 MS. QUINN: Yes. Yes.  
4 Absolutely.

5 CERTIFIED STENOGRAPHER: Do you  
6 need it expedited?

7 MS. QUINN: If we could, yes.

8 CERTIFIED STENOGRAPHER: Does  
9 anyone need a rough draft?

10 MS. QUINN: A rough draft? No, I  
11 don't think so.

12 MR. COLES: Yes, we would like a  
13 rough.

14 CERTIFIED STENOGRAPHER: Okay.  
15 Thank you.

16 (Concluded at 4:39 p.m.)

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KERRY JAMIESON

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

(Notary Public)

My Commission  
expires: \_\_\_\_\_

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF POLK

I, the undersigned authority, certify  
that KERRY JAMIESON remotely appeared before  
me and was duly sworn.

WITNESS my hand and official seal this  
6th day of August, 2020.

---

Rhonda Hall-Breuwet, RDR, CRR, LCR, CCR, FPR  
Notary Public - State of Florida  
My Commission Expires: 9/28/23  
Commission No. GG 360849

C E R T I F I C A T E

STATE OF FLORIDA:

I, RHONDA HALL-BREUWET, RDR, CRR, LCR,  
CCR, FPR, stenographic shorthand reporter, do  
hereby certify:

That the witness whose deposition is  
hereinbefore set forth was duly sworn, and  
that such deposition is a true record of the  
testimony given by such witness.

I further certify that I am not related  
to any of the parties to this action by blood  
or marriage, and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 6th day of August, 2020.

---

RHONDA HALL-BREUWET, RDR, CRR, LCR, CCR, FPR  
Stenographic Shorthand Reporter

## ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: UNIFORMED FIRE OFFICERS  
ASSOCIATION, et al. V. BILL de BLASIO, et al.  
Dep. Date: August 6, 2020  
Deponent: KERRY JAMIESON

## CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read	Reason
6	_____	_____	_____	_____
7	_____	_____	_____	_____
8	_____	_____	_____	_____
9	_____	_____	_____	_____
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16	_____	_____	_____	_____

\_\_\_\_\_  
Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020

\_\_\_\_\_  
(Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_

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